

PT 98-58

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

IQRA INTERNATIONAL)	
EDUCATIONAL	)	No: 96-16-283
FOUNDATION,)	
APPLICANT	)	Real Estate Tax Exemptions for
	)	1996 Assessment Year
)	
v.	)	P.I.N.S: 10-28-412-025
	)	10-28-412-026
	)	10-28-412-027
	)	10-28-412-028
	)	10-28-412-029
)	
)	
ILLINOIS DEPARTMENT	)	Alan I. Marcus
OF REVENUE	)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. James P. Arndt on behalf of the IQRA International Educational Foundation; Mr. John L. Wren of Franczek and Sullivan on behalf of Niles Township High School.

SYNOPSIS: This proceeding¹ raises the issue of whether any portion of real estate identified by Cook County Parcel Index Numbers 10-28-412-025, 10-28-412-026, 10-28-412-026, 10-28-

1. On June 2, 1997, the ALJ issued an order consolidating this case with a sales tax exemption case (Departmental Docket Number 97-ST-0001) filed by the same applicant. These cases arise out of the same set of operative facts and there is little difference in their sum and substance. Nevertheless, I have chosen to write separate Recommendations in order to promote greater clarity and prevent any confusion associated with technical differences in the sales and property tax exemption cases.

412-027, 10-28-412-028 and 10-28-412-029 (hereinafter collectively referred to as the "subject property") qualifies for exemption from 1996 real estate taxes under 35 ILCS 200/15-40.² That provision states, in relevant part, that:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt [from real estate taxation], including such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

The controversy arises as follows:

IQRA International Educational Foundation (hereinafter the "applicant") filed a Real Estate Tax Exemption Complaint with the Cook County Board of (Tax) Appeals (hereinafter the "Board") on October 11, 1996. (Dept. Group Ex. No. 1, Doc. B). Niles Township High School District No. 219 (hereinafter the "intervenor") filed a petition to intervene in this matter on November 6, 1996. (Dept. Ex. No. 2).

The Board reviewed applicant's complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the "Department") that the requested exemption be denied. (Dept. Group Ex. No. 1, Doc. A). The Department later accepted the Board's recommendation by issuing a determination dated May 11, 1997. Said determination found that the subject property was neither in exempt ownership nor in exempt use. (Dept. Group Ex. No. 3).

2. In People ex. rel. Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption necessarily depends on the statutory provisions in force during the time for which the exemption is claimed. This applicant seeks exemption from 1996 real estate taxes. Therefore, the applicable provisions are those found in the Property Tax Code, 35 ILCS 200/1 *et seq.*

Applicant subsequently filed a timely appeal as to this denial (Dept. Ex. No. 5) and thereafter presented evidence at a formal administrative hearing. Following submission of all evidence and a careful review of the record, it is recommended that the subject property not be exempt from 1996 real estate taxes.

FINDINGS OF FACT:

A. Preliminary Considerations and Applicant's Organizational Structure

1. The Department's jurisdiction over this matter and its position therein, namely that all of the subject property was not in exempt ownership and not in exempt use during the 1996 assessment year, are established by the admission into evidence of Dept. Ex. No. 3.
2. Applicant was incorporated under the General Not-For-Profit Corporation Act of Illinois on November 22, 1983. Its Articles of Incorporation provide, *inter alia*, that: (1) its primary purpose is the promotion of Islamic education while upholding related religious and educational activities based on the constructs of Islamic ideology; (2) that it intends to develop a comprehensive systematic program of Islamic education for children and adults while promoting research, writing, translation, sales and distribution of vast variety of Islamic literature; (3) it will establish educational institutions for the promotion of the previously-stated objectives; (4) it will strive to better Islamic education in any way possible through the sale of books, donations, grants or general contributions; (5) it will also accept short or long term donations; (6) it will cooperate and interact with other religious organizations and/or educational institutions so as to establish better social understanding; and (7) it will undertake all projects and actions

within its powers and allowed by the law to accomplish its objectives. Applicant Ex. No. 1-A.

3. Applicant's by-laws provide that its daily business affairs shall be managed by a Board of Directors. This Board consists of the four corporate officers (president, vice president, secretary, treasurer) and three other members who are elected at an annual meeting. Applicant Ex. No. 1-C.
4. Applicant's by-laws also prescribe specific duties for the Board of Directors as well as the various corporate officers. They also provide that, in the event of dissolution, applicant shall apply its funds first toward satisfaction of all outstanding liabilities but then donate any remaining monies to other organizations having similar objectives. *Id.*
5. Applicant obtained an exemption from federal income tax on December 27, 1987. The Internal Revenue Service granted this exemption pursuant to Section 501(c)(3) of the Internal Revenue Code and based same on its conclusion that applicant qualified as an organization described in Section 509(a)(2) thereof. Applicant Ex. No. 1-D.

B. Applicant's Financial Structure

6. Applicant's financial structure is based on a calendar (rather than fiscal) year. A financial statement for the year ended December 31, 1996³ discloses the following about applicant's sources of revenue:

SOURCE	AMOUNT	% OF TOTAL ⁴
Public Support	\$ 446,435.00	36%
Sale of Books	\$ 720,642.00	57%
Income from Investments	\$ 2,881.00	<1%
Rental Income	\$ 87,092.00	7%
Total	\$1,257,050.00	

Applicant Ex. No. 1-E.

7. The public support came mostly from individual contributions that applicant solicited through various fundraising techniques. Tr. pp. 34, 44.
8. Applicant applied the revenues generated from sales of books toward printing and publishing books and other religious materials. It used these books and

3. Applicant also submitted its tax returns for the years ending December 31, 1994 and December 31, 1995 (Applicant Ex. Nos. 1-F, 1G). These returns provide a broader view of applicant's financial structure, which (except for the actual numbers and their associated percentages) remained fairly consistent (in terms of having the same basic sources of revenue, congruously expending its revenues on the same central items, etc.) during this three-year period.

This case pertains only to the 1996 assessment year. *See*, footnote 2, *supra*, at p. 2. Consequently, I find that the 1996 financial statement provides the most relevant information about applicant's financial structure during that year. Therefore, I shall base Findings of Fact 6, 10, 11, 12 and 13 on the contents thereof.

4. All percentages shown herein are approximations derived by dividing the category of income or expense (e.g. Public Support) by the appropriate total. Thus, for example, $\$446,435.00/\$1,257,050.00 = 0.3551$ (rounded to 4 places past the decimal) or approximately 36%.

publications to educate and inform the public and other organizations about the religion of Islam.⁵ Applicant Ex. No. 1-F.

9. Applicant derived rental income by leasing office space to various commercial tenants.⁶ Applicant Ex. No. 2-B; Tr. pp. 36-37, 43-44, 120-126.

10. Applicant's operating expenses for the same period were as follows:

SOURCE	AMOUNT	% OF TOTAL
Salaries - Administrative & Other	\$151,349.00	48%
Payroll Taxes	\$ 29,041.00	9%
Health Insurance	\$ 23,828.00	8%
Secretarial Services	\$ 14,332.00	5%
Temporary & Casual Labor	\$ 10,376.00	3%
Library, Dues & Subscriptions	\$ 2,908.00	<1%
Telephone	\$ 17,053.00	5%
Bank Service Charges & Interest	\$ 7,505.00	2%
Conventions & Meetings	\$ 2,714.00	<1%
Postage & Freight	\$ 7,994.00	3%
Repairs & Maintenance	\$ 43,293.00	14%
Legal	\$ 1,245.00	<1%
Audit Fee	\$ 2,000.00	<1%
TOTAL OPERATING EXPENSES	\$313,638.00	

Applicant Ex. No. 1-E.

5. Basic Islamic beliefs hold that: (1) One G-D created the universe and all humanity; (2) This G-D has sent His divine guidance to all peoples and nations of the world; (3) Jews and Christians are "people of the Book" with whom Muslims share a "special relationship"; (4) Muhammad is the final prophet, whose message brings the Torah and Gospels to their conclusion and (5) Muhammad's teachings are contained in Islam's holy book, the Qur'an. Tr. pp. 143-145.

6. For details about these rentals and their consequences for exemption of the subject property, *see, infra* at pp. 13, 28.

11. Expenses associated with applicant's book service and book store (hereinafter its "publishing enterprises") were as follows:

SOURCE	AMOUNT	% OF TOTAL
Salaries	\$100,944.00	17%
Casual Labor & Outside Services	\$ 24,435.00	4%
Writers' Compensation	\$ 23,339.00	4%
Printing Costs & Outside Purchases	\$ 271,210.00	46%
Delivery & Freight	\$ 48,745.00	8%
Outside Consultants	\$ 18,751.00	3%
Shipping & Customs	\$ 4,914.00	1%
Promotion & Advertising	\$ 16,329.00	3%
Office Supplies & Expenses	\$ 13,693.00	2%
Rent & Occupancy Expenses	\$ 35,600.00	6%
Travel & Auto	\$ 19,177.00	3%
Telephone	\$ 2,610.00	<1%
Utilities	\$ 3,767.00	<1%
Conventions & Meetings	\$ 6,465.00	1%
Insurance	\$ 3,723.00	<1%
Repairs & Maintenance	\$ 1,379.00	<1%.
TOTAL EXPENSES ASSOCIATED WITH PUBLISHING ENTERPRISES	\$595,081.00	

Id.

12. Expenses associated with applicant's rentals were as follows:

SOURCE	AMOUNT	% OF TOTAL
Repairs & Maintenance	\$26,190.00	31%
Utilities	\$26,559.00	31%
Supplies & Expenses	\$29,282.00	34%
Insurance	\$ 3,418.00	4%
TOTAL	\$85,449.00	

Id.

13. Applicant's total expenses, from all the above and other sources, were as follows:

SOURCE	AMOUNT	% OF TOTAL
Operating Expenses	\$313,638.00	31%
Publishing Enterprises	\$595,081.00	60%
Rentals	\$ 85,449.00	9%
Grants & Scholarships	\$ 2,000.00	<1%
TOTAL EXPENSES	\$996,168.00	

Id.

14. The grants and scholarships were awarded by a committee of professors. They provided assistance to students in India who otherwise would have been forced to leave school because of economic hardship. Applicant Ex. Nos. 1-F, 1-G.
15. Applicant awarded \$7,700 in grants and scholarships during 1994. It also made \$13,812.00 in such awards during 1995. *Id.*; Applicant Ex. No. 2-G.
16. Applicant paid total wages of \$250,292.79 during 1996. Wage payments for the 16 employees listed on its 1996 Wage and Tax Statements (IRS form W-2) averaged \$15,643.25. However, the individual salaries or wage payments ranged from \$2,500.00 to \$36,000.00. Applicant Ex. No. 1-H.

C. Applicant's Operations

17. Applicant has published over 50 titles and 20 charts. Its volunteers and employees actively participate in and oversee most phases of the publishing process (selecting and contracting with authors,⁷ editing, preparing the layout, etc.), except for the actual printing and binding, which applicant currently outsources. Applicant Ex. No. 2-F; Tr. pp. 57, 67, 92, 131-133.

7. Applicant controls only the actual selection process. Most of those whom it selects are, however, independent writers. Tr. p. 131.

18. Applicant's publications include: (1) a workbook for elementary school children entitled "Our Faith and Worship"; (2) "Teachings of Our Prophet," which is a selection of Islamic readings for children; (3) "A Study of Hadith," [sic] an anthology of Islamic literature for older children; (4) "Shapes and Forms of Arabic Letters" and (5) "Teachings of the Qur'an," for children ages 7-9. *Id*; Applicant Ex. No 2-I; Tr. p. 90.
19. Applicant operates a book store that is located at 2701 W. Devon, Chicago, IL 60659.⁸ It sells the books its publishes and related items (video and audio cassettes, CD ROMS, etc.) at this store. Applicant Ex. Nos. 2-F; Tr. p. 42.
20. Applicant also furnishes its publications to mosques and Islamic schools. It supplies over 50 such institutions in the Chicago area. Tr. p. 93.
21. Applicant prefers not to give publications away free of charge, although it does receive numerous requests for the Qu'ran and other materials from inner-city schools and incarcerated Muslims. Despite these requests, applicant encourages people to buy. Applicant Ex. No. 1-H; Tr. pp. 93, 98-99, 142.
22. The prices that applicant charges for its publications barely cover the out-of-pocket expenses that applicant incurs while producing each publication. Tr. pp. 93-95, 136.
23. The cost of each publication is determined by the quantity printed, so that increases in the amount printed cause decreases in the price that applicant pays for each unit. Tr. p. 94.

8. This book store is located away from the subject property and not at issue herein.

24. Applicant currently publishes approximately 5,000 copies of any given book per year, which is not cost effective. It will not achieve cost efficiency until the quantity reaches at least 10,000 copies per year. *Id.*
25. Applicant also develops and publishes preschool, kindergarten and elementary curricula that have been adopted in the educational programs of Islamic schools located in the United States, India, Pakistan and Australia. Applicant Ex. No. 2-G, 2-I, 3-F; Tr. pp. 62, 91, 137.
26. Applicant divides these curricula into the following levels: (1) preschool, for ages 3-6; (2) elementary, for ages 6-9; (3) junior, for ages 9-12 and (4) senior, for ages 12-18. Applicant Ex. No. 2-I.
27. The curricula parallel those taught in private Jewish and Christian school and cover subjects including: (1) Arabic language arts; (2) Qur'anic studies; (3) the Islamic Code of Conduct; (4) presenting Islam; (5) Geography, History and Social Science; (6) translations of contemporary and traditional works; (7) readings with Muslim context and (8) Islamic literature. *Id.*; Tr. p. 91.
28. Applicant presents these and other subjects in the curricula through a series of textbooks, workbooks, parent/teacher guides, enrichment literature and other educational materials. It subjects each constituent element (and the program as a whole) to rigorous field tests before promulgating the curriculum. Applicant Ex. No. 2-I; Tr. pp. 92, 136.
29. The field tests are supervised by applicant's curriculum director and other experts in the field of education. Applicant Ex. No. 2-G.

30. Applicant is also involved in an outreach program aimed at standardizing Islamic education on a world-wide basis. Among the organizations cooperating with applicant's efforts are: (1) the Michigan Educational Council; (2) the Islamic Society of Central Florida; (3) the Muslim Community Center, Maryland; (3) the Moslem Community Center of Chicago, Illinois and (4) the Islamic Foundation of Villa Park, Illinois. *Id*; Tr. p. 170 .
31. Applicant's executive director and other representatives of IQRA participate in various interfaith discussions and other programs that promote religious tolerance among Muslims, Christians and Jews. Applicant Ex. Nos. 2-G, 3-C; Tr. pp. 138-139.
32. Applicant's curriculum director serves on an interfaith committee that advises the Chicago Public School System (hereinafter the "System") on issues ranging from decreasing truancy to improving school and community safety. This committee also helps develop a character and values curriculum for the System. Applicant Ex. Nos. 2-G, 3-A, 3-C.
33. Applicant's other activities include: (1) developing an "Open University" that will provide independent study opportunities for students wishing to pursue Islamic education via correspondence; (2) donating books to the Skokie public library; (3) participating in an inter-religious perspectives program sponsored by the University of Chicago; (4) providing educational assistance to the Indo-American Center, an organization that sponsors seminars and workshops wherein the participants are affiliated with schools such as Albany Park Multicultural Academy, Clemente High School, Sabin Magnet School, Walter Reed Elementary

and Middle School, East Prairie School in Skokie, Lincolnwood School District, Niles West High School and the University of Chicago Laboratory School; (5) conducting and taking part in other workshops that disseminate information about Islamic education and (6) assisting the College Preparatory School of America, (hereinafter "CPSA"),⁹ obtain accreditation from the Illinois State Board of Education. Applicant Ex. Nos. 3-B, 3-C, 3-D, 3-E, 3-F; Tr. pp. 63, 86-87, 93-94.

D. Use Issues

34. Applicant conducts most of its operations from the subject property, which applicant acquired ownership of via a Trustee's Deed dated August 15, 1995. Dept. Group Ex. No. 1, Doc. A; Applicant Ex. No. 2-A.
35. The subject property is located at 7450 Skokie Boulevard, Skokie, Illinois 60077 and consists of a 19,527 square foot office complex. Dept. Ex. No. 1, Doc. A; Applicant Ex. Nos. 2-D, 2-E.
36. The complex features 2 floors and a basement. Each floor occupies 9,200 square feet. Dept. Group Ex. No. 1; Tr. pp. 75, 126.
37. All of the top floor was leased to various commercial entities throughout the 1996 assessment year.¹⁰ Applicant inherited these leases when it purchased the subject property yet did not terminate any of the tenancies after taking possession. Applicant Ex. No. 2-B; Tr. pp. 68, 123-124, 129.

9. CPSA is a fully accredited yet private Islamic school located at 331 W. Madison Street, Lombard, IL 60148. It offers a pre-school program as well as curricula for kindergarten through 12th grade. Applicant Ex. No. 3-F.

10. For details about the terms of these leases and their expiration dates, *see*, Applicant Ex. No. 2-B.

38. Applicant also leased 1,375 square feet of the ground floor (or approximately 15% thereof),¹¹ to a medical laboratory throughout the 1996 tax year. Applicant used the unleased portion, which amounted to 7,825 square feet,¹² (or 85% of the ground floor),¹³ for the following purposes: (1) administrative and other offices (graphic design, editors, research staff, etc.) used in conjunction with applicant's publishing enterprises; (2) two conference/seminar rooms; (3) a library; (4) storage space and (5) a loading dock that occupies approximately 1,000 square feet of interior space. Applicant Ex. Nos. 2-B, 2-C, 2-D; Tr. pp. 56-62, 72-75, 80-82, 124-127.
39. Applicant's staff conducts various workshops and instructional programs in the seminar/conference rooms. Some of these programs focus on Arabic or Qu'anic studies and furnish instruction to those who give sermons at Friday prayer services.¹⁴ Others center on Islamic approaches to problems that arise from marriage, parenting, and various social problems. Tr. pp. 58-63.
40. Applicant does not operate a formal school on the subject property or hold regularly scheduled classes thereon. However, some of the programs that applicant's staff conduct in the seminar/conference rooms do provide teachers

11. $1,375/9,200$ (total square footage of each floor) equals a rounded figure of .1495, or approximately 15% of the first floor. This leasehold also occupies 7% ($1,375/19,527$ equals a rounded figure of 0.0704) of the total square footage of the building.

12. $9,200 - 1,375 = 7,825$

13. $7,825/9,200$ equals a rounded figure of .8505, or approximately 85% of the first floor. This unleased portion also accounts for approximately 40% ($7,825/19,527$ equals a rounded figure of 0.4007) of the total square footage of the building.

14. Friday is the holy day in the Islamic faith. Tr. p. 61.

with training in the curriculum that applicant develops for Islamic schools. *Id.*; Tr. pp. 134-135, 138.

41. Applicant further uses the seminar/conference rooms to periodically conduct interfaith dialogues. Tr. pp. 138-139.
42. One of the seminar/conference rooms is also used as a prayer area for applicant's Moslem employees who, according to tenets of their faith, must pray five times each day. The employees do not conduct any formal, organized religious services in this area. They do, however, regularly pray in this space at least once, and sometimes as many as three times, per day. Tr. pp. 137, 146-147.
43. The library contains between 7,000 and 10,000 volumes of material pertaining to Islamic studies. Applicant keeps 1/3 of these materials in a room on the first floor and stores the remainder (which it can not stock on the first floor due to lack of space) in the basement. Tr. pp. 58, 63-65.
44. Applicant does not charge anyone for using this library. However, most of those who avail themselves of the resources contained therein are members of applicant's staff. *Id.*
45. Other library users include faculty and students from the University of Chicago, American Islamic College and Northwestern University. *Id.*
46. The basement occupies 9,200 square feet and contains: (1) no less than four storage areas, all of which are used by applicant; (2) one storage area that is reserved for materials that applicant can not make available in its first-floor library; (3) a shipping area, out of which applicant fills mail orders for its publications; (4) two small offices that are: (a) located immediately adjacent to

the shipping area and (b) used for receiving book shipments that applicant places;
(5) a small workshop used by maintenance people who service the entire building;
(6) a furnace that supplies heat and cooling to the entire office complex and (7) an
elevator. Applicant Ex. No. 2-C; Tr. pp. 58, 65-67, 75, 82-83, 122, 130, 141-142.

47. The elevator is located in a small rectangular area of unspecified square footage.
The elevator itself is designed to service the entire building. However, most (if
not all) of its use comes from the medical laboratory and second-floor tenants. Tr.
pp. 128-129, 141-142.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has not demonstrated, by the
presentation of testimony or through exhibits or argument, evidence sufficient to warrant
exempting the subject property from 1996 real estate taxes. Accordingly, under the reasoning
given below, the determination by the Department that said property does not qualify for
exemption under 35 ILCS 200/15-40 should be affirmed. In support thereof, I make the
following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the
property of the State, units of local government and school districts
and property used exclusively for agricultural and horticultural
societies, and for school, religious, cemetery and charitable
purposes.

The power of the General Assembly granted by the Illinois Constitution operates as a
limit on the power of the General Assembly to exempt property from taxation. The General
Assembly may not broaden or enlarge the tax exemptions permitted by the Constitution or grant
exemptions other than those authorized by the Constitution. Board of Certified Safety
Professionals, Inc. v. Johnson, 112 Ill.2d 542 (1986). Furthermore, Article IX, Section 6 is not a

self-executing provision. Rather, it merely grants authority to the General Assembly to confer tax exemptions within the limitations imposed by the Constitution. Locust Grove Cemetery Association of Philo, Illinois v. Rose, 16 Ill.2d 132 (1959). Moreover, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code 35 ILCS 200/1-3 *et seq.* The provisions of that statute that govern disposition of the instant proceeding are found in Section 200/15-40, which states in relevant part as follows:

All property *used* exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt [from real estate taxation], including such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

It is well established in Illinois that a statute exempting property or an entity from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. People Ex Rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption and have required such party to prove by clear and conclusive evidence that it falls within the appropriate statutory exemption. Metropolitan Sanitary District of Greater Chicago v. Rosewell, 133 Ill. App.3d 153 (1st Dist. 1985).

Here, the relevant exemption pertains to "property used exclusively for religious purposes ...[.]" Prior to 1909, it was a requirement for the exemption of property used for religious purposes that it be owned by the organization that claimed the exemption. Since that time however, a statutory amendment (which the emphasized language demonstrates is still in effect) eliminated that requirement in cases that do not involve parsonages. The test of exemption then became (and, with the exemption of parsonages, still remains) use and not ownership. People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922). *See also*, American National Bank and Trust Company v. Department of Revenue, 242 Ill. App.3d 716 (2nd Dist. 1993). For this reason, the subject property cannot be exempted under Section 200/15-40 merely because the applicant owns it. Therefore, it is necessary to examine the definition of "religious use" in order to determine whether any portion of said property qualifies for exemption under the applicable statute.

In People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132 (1911) (hereinafter "McCullough"), the Illinois Supreme Court considered whether appellee's real estate qualified for religious and educational exemptions from property taxes under amendments to the Revenue Act that became effective July 1, 1909. While the court's analysis of the educational exemption has limited relevance to this proceeding, its definition of the term "religious purpose" provides the basic framework for analyzing taxpayer's claim under Section 200/15-40.

The court began its analysis by noting that "[w]hile religion, in its broadest sense, includes all forms and phases of belief in the existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of G-D as members of societies and associations." McCullough, *supra* at 136.

Cases decided after McCullough have acknowledged that religious beliefs are not necessarily limited to those which profess an orthodox belief in G-D. *See*, United States v.

Seeger, 380 U.S. 163 (1965). However, the following definition of "religious purpose" contained in McCullough, emphasizes a more traditional approach:

As applied to the uses of property, a religious purpose means a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction. McCullough at 136-137.

An analysis of whether this applicant satisfies the above criteria begins with consideration of the language found in its organizational documents. Morton Temple Association v. Department of Revenue, 158 Ill. App.3d 794 (3rd Dist. 1987). In making such consideration, it must be remembered that "statements of the agents of an institution and the wording of its governing documents evidencing an intention to [engage in exclusively exempt activity] do not relieve such an institution of the burden of proving that ... [it] actually and factually [engages in such activity]." *Id.* at 796. Therefore, "it is necessary to analyze the activities of the [applicant] in order to determine whether it is an exempt organization as it purports to be in its charter." *Id.*

In this case, applicant's Articles of Incorporation recite that its primary focus is furthering the cause of Islamic education. This focus is borne out by the financial statement submitted as Applicant Ex. No. 1-E and the various publications admitted as Applicant Ex. Nos. 2-G and 2-I. The financial statement establishes that applicant derives 57% of its total revenues from the sale of books and devotes 60% of its expenditures to publishing enterprises. Moreover, the publications prove that these enterprises are basically restricted to developing, proliferating and disseminating Islamic literature that is used in Muslim schools.

Applicant's non-publishing activities are best exemplified by the accreditation assistance applicant provided to CPSA and the donations it made to the Skokie Public Library. Such activities are consistent with applicant's overall organizational objectives, which center around furthering the cause of Islamic education. Even if such activities were inconsistent with those

objectives, they are clearly incidental¹⁵ to applicant's primary function, which, based on the foregoing, I find to be publishing and distributing books about the Islamic faith.

The exempt status of organizations having similar objectives is the subject of a line of decisions that begin with Congregational Sunday School and Publishing Society v. Board of Review, 290 Ill. 108 (1919) (hereinafter "Congregational Sunday School"). *See also*, Scripture Press Foundation v. Annunzio, 414 Ill. 339 (1953) (hereinafter "Scripture Press"); Inter-Varsity Christian Fellowship of the United States of America v. Hoffman, 62 Ill. App.3d 798 (2nd Dist 1978) (hereinafter "Inter-Varsity Christian Fellowship").

Appellant in Congregational Sunday School, *supra*, was a Christian organization whose corporate aim was to publish and distribute books for the purpose of disseminating the views of writers (that it employed) on religion and morality. Congregational Sunday School, *supra* at 110. Its operations were divided into four components: (1) maintaining a Sunday school missionary department, which organized Sunday schools and maintained missionaries who visited and assisted in the work of these schools; (2) publishing and circulating a Christian newspaper and other religious periodicals; (3) publishing and selling religious and moral books and (4) composing and publishing Sunday school periodical, lesson helps, etc. which it sold and supplied to Sunday schools of all denominations. *Id.*

Appellant sold its books at an office in Chicago, although the actual printing and publishing was done in Boston. It sold to whomever wished to buy. However, if a Sunday school could not afford to purchase supplies, or could only afford to pay a fraction of the price, appellant either provided the materials *gratis* or adjusted the price according to the school's ability to pay, as was appropriate to the particular situation. *Id.* at 110-112.

The prices were sufficient to cover whatever expenses appellant incurred in producing its publications. *Id.* A financial statement for the year in question demonstrated that sales of

15. Illinois courts have long ascribed to the principle that the primary use of real estate, rather than any incidental use or uses, determines exempt status. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968); Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971).

appellant's publications yielded a profit. However, the court noted that such profit did not bar exemption, reasoning that:

The work of the appellant is to send its workers and missionaries into those parts of our land where religious teaching among the young has been neglected, and there to take the young into Sunday schools for moral and religious instruction and provide for them wholesome literature. Many of these books are suitable for the use of adults, and the society seeks to supply the needs of individuals and families by gift where that is necessary but by sale whenever a sale is practicable. The price received, whatever it may be, makes a gift to needy persons possible to the amount so received beyond that which the [appellant] could otherwise give. It is not the use to be made of the profits but the nature of the business done that is to be considered in deciding the question of liability to taxation. We have already pointed out the purposes for which [appellant] was organized and the four-fold nature of its business. Sales of publications by this [appellant], whether at profit, at actual cost, or half cost, are in aid of the gratuitous distribution of the same publications among those who are unable to buy them.

Id. at 117-118.

Based on this reasoning, the court concluded that:

It seems clear that the predominant object of appellant in the use of its stock of books and Sunday school supplies in Chicago is to spread the gospel and to elevate humanity by means of written words embodied in its religious and moral books and in its Sunday school lesson-helps. The only means by which it can spread this gospel in printed form is by distribution of its books and Sunday school supplies. The purposes of appellant are directly carried out by the distribution and supplies, and the receipt of the money from sales is incidental and secondary. It is not the profits from the sale of the books that accomplish the purposes of the appellant, but it is the distribution of the books, periodicals and lesson-helps - and therefore the use of the property sought to be taxed - that directly accomplishes appellant's religious, charitable^[16] and *beneficent purposes*.

Id. at 123 (emphasis added). *Accord*, Inter-Varsity Christian Fellowship, *supra*, at 801.¹⁷

The most recent case to expound on this reasoning is Evangelical Teacher Training Association v. Novak, 118 Ill. App.3d 21 (2nd Dist. 1983). (hereinafter "Novak"). That case involved a real estate tax exemption claim raised by an organization that, *inter alia*: (1) was organized by five Bible colleges for purposes of upgrading Christian education at various levels, including seminary studies, adult education, and Sunday schools; (2) sent its staff members to speak at local chapel services and classes, as well as national conferences on the subject of Christian education; and (3) prepared materials for 14 separate Bible course offerings, which included texts, cassette tapes, overhead masters, instructor's guides and lesson plans. Novak, *supra* at 22-23.

16. For discussion of the charitable exemption and its application to this case, *see*, *infra* at pp. 23-25.

17. The Inter-Varsity Christian Fellowship court also distinguished Scripture Press, *supra*, wherein the court upheld the denial of an exemption from unemployment contributions. Those interested in the court's analysis of those distinctions are referred to Inter-Varsity Christian Fellowship, *supra* at 801-803. For additional criticism of Scripture Press, *see*, McKenzie v. Johnson, 98 Ill.2d 87, 98-99.

Employees of the organization at issue in Novak (which was the appellee therein) did not actually write these materials. They did, however, partake in their editing, distribution and sale as well as conduct seminars at schools and conventions. While these employees "may" have distributed appellee's materials free of charge at such seminars, appellee itself "often" donated its course and text materials to libraries and mission schools free of charge. Novak, *supra* at 23-24.

Appellee made these donations even though it did not produce any materials specifically designated for distribution without charge. It also sold the materials to those who were able to afford them. Appellee offset the losses from its donations with income from "high volume textbook" sales and placed any donations that it received into a Christian education scholarship fund that promoted its teacher training program in Third World Countries. *Id.*

The court viewed the above facts as raising a very specific issue, that being "whether the providing and promoting of a common course in teacher training which instructs on the general principles and specific methods of teaching with particular emphasis given to Bible studies, personal evangelism and missions is within the 'religious' [property] tax exemption."¹⁸ Novak, *supra* at 24.

In holding that the property at issue therein, from which appellee conducted all of its administrative functions, fell within those provisions, the court reasoned:

... that both Congregational Sunday School, [*supra*] and Inter-Varsity Christian Fellowship, [*supra*] involve[d] claims based on both religious and charitable purposes,^[19] while this appeal is

18. The statute which authorized that exemption during the tax year at issue in Novak was found in Ill. Rev. Stat. 1981, ch. 120, ¶ 500.2. Its current version is (as noted above) contained in 35 ILCS 200/15-40.

19. Both Congregational Sunday School, *supra*, and Inter-Varsity Christian Fellowship, *supra*, involved claims for exemption from personal property taxes. Intervenor points out that such taxes were abolished as of January 1, 1979 pursuant to Article 9, §5(c) of the Illinois Constitution of 1970. This assertion is technically correct. *See*, 35 ILCS 200/24-5 and

confined only to the claim for religious exemption. While the analysis required for charitable purposes^[20] may not be identical in all situations with that applicable to the religious exemption, it is a fair inference from the authorities that many of the same factors may be common to both claims for exemption in determining whether a religious or secular purpose is being performed. Thus, in [Congregational Sunday School], the court noted, "they are so closely associated that we will discuss them together." *Congregational Sunday School & Publishing Society v. Board of Review*, (1919) 290 Ill. 108, 112. See also, *Scripture Press Foundation v. Annunzio*, (1953) 414 Ill. 339, 357-58.

While the [appellant] county broadly asserts that [appellee's] stated purpose to improve Christian education at academic and local levels, is only accomplished through the sale of its religious books and materials others, who in turn conduct the "religious" oriented activity, the opposite is manifest from the record. The chief officers of [appellee] are both ministers and doctors of education. Their activities are primarily directed toward the teaching and demonstration of teacher training techniques, as is disclosed by their exhaustive travel, lecture, and workshop schedule. These travel and speaking activities serve to directly accomplish [appellee's] corporate purpose, the promotion of Christian education, in a manner which could not be achieved

its predecessor provisions, 35 **ILCS** 205/18.1 and Ill. Rev. Stat. 1991, ch. 120, ¶ 499.1; People ex. rel. Bosworth v. Lowen, 155 Ill. App.3d 855, 863 (3rd Dist. 1983), *aff'd*, 102 Ill.2d 242 (1984). However, absent a Constitutional, legislative or judicial mandate to the contrary, such eradication does not (as intervenor posits) *ipso facto* nullify the case law that governed exemption from such taxes prior to abolition.

If such a mandate existed, the Novak court (which rendered its decision *after* the personal property tax was abolished) could not have relied on Congregational Sunday School, *supra*, and Inter-Varsity Christian Fellowship, *supra* without violating the doctrine of *stare decisis* and other fundamental principles governing judicial adjudication. Accordingly, I reject intervenor's suggestion that these cases are inapplicable herein.

20. Those requirements currently arise from the statutory provisions contained in 35 **ILCS** 200/15-65, which, in relevant part, exempts from real estate taxation property owned by "institutions of public charity," provided that such property is "actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit[.]"

through the mere sale and distribution of its books and religious materials.

Novak, *supra* at 26. [Citations as they appear in the original].

In applying this analysis, the Novak court did not cite Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Korzen"), which is the leading case in the realm of charitable exemptions. Nor did the Novak court make any analysis of the guidelines articulated in Korzen.²¹ Rather, the court merely noted that , *in the context before it*, separate analyses of the charitable and religious exemptions were unpractical because the analysis required for one was so intertwined with that affecting the other. Novak, *supra*, at 26.

21. These criteria begin with the ensuing definition, which is then followed by recitation of five "distinctive characteristics" common to all "institutions of public charity[:]"

... charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

Korzen, *supra* at 156-157, citing Crerar v. Williams, 145 Ill. 625, 643 (1893).

The five "distinctive characteristics" identified by the Korzen court are that charitable institutions:

- 1) have no capital stock or shareholders;
- 2) earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
- 3) dispense charity to all who need and apply for it;
- 4) do not provide gain or profit in a private sense to any person connected with it; and,
- 5) do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses.

Id.

This approach creates confusion by blurring technical distinctions between the religious and charitable exemptions. Nevertheless, it is the current *modus operandi* under which our courts analyze the exempt status of religious publishing organizations such as applicant. As such, the doctrine of *stare decisis* requires that I adhere to this hybrid analysis when examining the present record.

Application of this approach requires comparison of the factual similarities and differences between this case and those cited above. Favorable comparisons include the facts that: (1) applicant publishes and distributes books and other materials that pertain to the Islamic faith; (2) many of these books are used in connection with the curriculum that applicant designs for and implements at Islamic schools; (3) the prices applicant charges for the publications it does sell barely cover its printing costs; (4) applicant's executive director, Abdullah Ghazi, holds a doctorate in comparative religions and serves as an Imam in various Chicago-area mosques (Tr. pp. 47, 137); (5) applicant's curriculum director, Tasneema Ghazi, holds a master's degree and a PhD. in education-curriculum as well as a certificate of advanced study in child development. (Tr. p. 156).

These latter facts establish that this case is similar to Novak, *supra*, in that applicant's executive and curriculum directors are duly qualified experts²² in the respective areas of religion and curriculum-child development. However, it must be emphasized that, this case is unlike Congregational Sunday School, *supra* and Novak, *supra*, because the applicant herein prefers to

22. For analysis of the legal requirements for establishing the qualifications and competency of experts giving opinion testimony *see*, Taylor v. The Carborundum Co., 107 Ill. App.2d 12 (1st Dist. 1969); People v. Johnson, 145 Ill. App.3d 626 (1st Dist. 1986).

sell its books and does not give its publications away except on a "discretionary" basis.²³ (Tr. pp. 93, 98-99, 142, Applicant's brief, p. 8). As such, its donations to the Skokie Public Library are best characterized as incidental acts of "charity" that are legally insufficient to sustain applicant's burden of proof.

The same may be said of the grants and scholarships that applicant awards to students in India. My analysis of applicant's financial structure, *supra* at p. 8, demonstrates that such grants and scholarships accounted for less than 1% of applicant's total expenditures during 1996. Consequently, the present matter parallels a line of decisions wherein exemptions were denied because the respective records lacked evidence of any "charitable" disbursements or supported a conclusion that such expenditures were non-existent or *de minimus*. Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286, 291 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App.3d 794 (3rd Dist. 1987); Albion Ruritan Club v. Department of Revenue, 209 Ill. App.3d 914, 919 (5th Dist. 1991); Auburn Park Lodge No. 789 v. Department of Revenue, 95 L 50343 (Circuit Court of Cook County, September 6, 1996).

This case is also factually distinguishable from Novak, *supra*, in that applicant herein was *not* organized by religiously-oriented Bible colleges for purposes of upgrading the quality of education at member institutions. (See *supra*, at p. 21). Although the efforts of applicant's experts may raise the caliber of instruction at Islamic schools, the record fails to indicate that applicant was formed in response to the needs of these religiously-based institutions. Therefore, applicant has failed to prove that it is not the type of entrepreneurial entity suggested to be non-

23. Appellant in Congregational Sunday School provided materials *gratis* or adjusted the price according to the school's ability to pay. See, *supra* at p. 20. Appellee in Novak "often" donated its course and text materials to libraries and mission schools free of charge. See, *supra* at p. 22.

exempt under the hybrid analysis set forth in Congregational Sunday School, *supra* and Novak, *supra*.

Furthermore, applicant did not submit any evidence establishing the exempt status of any of the Islamic schools that it services. With one exception, applicant also did not establish that it played a role in helping such institutions to become accredited. This exception is, under the above analysis, clearly incidental to applicant's primary use, which centers around its publishing enterprises. Even if it were not, the evidence fails to establish that applicant *itself* is an accredited school or responsible for issuing accreditation to Islamic schools.

This latter consideration serves to distinguish the present case from Association of American Medical Colleges v. Lorenz, 17 Ill. 2nd 125 (1959), (hereinafter "Lorenz"), wherein appellant joined in the accreditation of all medical schools in the United States via its inspection and liaison committee. Appellant also performed a number of other functions which the court noted would themselves qualify for exemption if performed separately by member institutions. Lorenz, *supra* at 129. These functions included, *inter alia*: (1) publishing a journal and a directory showing admission requirements to member medical schools; (2) compiling student information designed to assist medical schools in developing programs of instruction; (3) sponsoring admission tests and teaching institutes; (4) evaluating students intellectual and personality characteristics as well as their relationship to scholastic and professional performance; (5) maintaining a library of motion picture films for use by medical schools; (6) carrying out various placement functions and (7) appraising curricula of member medical schools and colleges.

Applicant argues that its curriculum development functions mirror those of the appellant in Lorenz. However, this argument fails to recognize that such functions were but one of many

services which the Lorenz appellant rendered to its member institutions. Although cursory review of the record might lead one to argue that this applicant provides similar additional services, the following analysis shall demonstrate the presence of numerous distinguishing factors.

The library that applicant operates is, unlike that in Lorenz, used primarily by its own staff. Thus, any public or "member institution" uses must be considered incidental. Moreover, while applicant does conduct various seminars, workshops and instructional programs on religious and other topics, (including its curriculum), such programs are likewise incidental to applicant's publishing enterprises. Even if they were not, the record fails to disclose that such programs provided anything but short-term lessons. Consequently, it is unlikely that any instruction taking place therein was included in a prescribed course of study. *See, American College of Chest Physicians v. Department of Revenue*, 202 Ill. App.3d 59 (1st Dist. 1990); Winona School of Professional Photography v. Department of Revenue, 211 Ill. App.3d 565, 570 (1st Dist. 1991).

It also bears noting that applicant does not sponsor any admission tests or perform any placement functions in Islamic schools. Nor does it evaluate students' scholastic abilities for any of the Islamic schools that might be considered "member institutions." Based on these and all the above-stated distinctions, I conclude that applicant's reliance on Lorenz is misplaced.

Taken as a whole, the preceding analysis demonstrates that this case is factually and legally distinguishable from Congregational Sunday School, *supra*, Inter-Varsity Christian Fellowship, *supra*, Novak, *supra* and Lorenz, *supra*. Such distinctions raise enough doubts, all of which must be resolved in favor of taxation, (*see, supra*, p. 17) as to warrant the overall conclusion that applicant does not qualify for exemption under the hybrid analysis set forth in Congregational Sunday School and Novak.

These distinctions also demonstrate that applicant is not similarly situated to any of the entities found to be exempt in Congregational Sunday School, *supra*, Inter-Varsity Christian Fellowship, *supra*, Novak, *supra* and Lorenz, *supra*. Therefore, denying its request for exempt status does not violate applicant's equal protection rights. Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542, 548 (1986). For this and all the aforementioned reasons, the Department's determination that the subject property not be exempt from 1996 real estate taxes should be affirmed.

WHEREFORE, for the reasons set forth above, it is my recommendation that real estate identified by Cook County Parcel Index Numbers 10-28-412-025, 10-28-412-026, 10-28-412-026, 10-28-412-027, 10-28-412-028 and 10-28-412-029 not be exempt from 1996 real estate taxes.

September 1, 1998

Date

Alan I. Marcus
Administrative Law Judge